

§ 350.1

12 CFR Ch. III (1-1-97 Edition)

(2) At the correspondent banks of the disclosing bank at any time during the previous calendar year

equals or exceeds the lesser of five percent (5%) of the disclosing bank's capital stock and unimpaired surplus or \$500,000, but in no event shall an insured State nonmember bank be required to make such disclosure where the aggregate indebtedness of an executive officer or principal shareholder is less than \$25,000.

(b) *Contents of disclosure.* (1) An insured State nonmember bank is not required to disclose any additional information concerning the indebtedness referred to in paragraph (a) of this section, except that it must observe the requirement of paragraph (b)(2) of this section.

(2) Disclosures made pursuant to paragraph (a) of this section shall specify whether the individual or individuals named in the disclosure, who are indebted in the amount specified in paragraph (a) of this section, are indebted solely to the bank itself or to one or more correspondent banks of the reporting bank or to both.

(c) An insured State nonmember bank shall maintain a copy of any request for information made under paragraph (a) of this section and a record of the bank's disposition of such request for a period of two years.

(d) *OMB review.* The Office of Management and Budget has reviewed and approved the collection of information requirements contained in this part 349 under OMB Control Number 3064-0023.

[48 FR 57114, Dec. 28, 1983, as amended at 49 FR 1176, Jan. 10, 1984]

PART 350—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY FDIC-INSURED STATE NON-MEMBER BANKS

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AUTHORITY: 12 U.S.C. 1817(a)(1), 1819 "Seventh" and "Tenth".

SOURCE: 52 FR 49379, Dec. 31, 1987, unless otherwise noted.

§ 350.1 Scope.

This part applies to FDIC-insured state-chartered banks that are not members of the Federal Reserve System, and to FDIC-Insured state-licensed branches of foreign banks.

§ 350.2 Definitions.

(a) *Bank.* For purposes of this part, the term *bank* means an FDIC-insured state-chartered organization that is not a member of the Federal Reserve System, and an FDIC-insured state-licensed branch of a foreign bank.

(b) *Call Report.* For purposes of this part, the term *Call Report* means the report filed by a bank pursuant to 12 U.S.C. 1817(a)(1).

§ 350.3 Requirement for annual disclosure statement.

(a) *Contents.* Each bank shall prepare and make available on request an annual disclosure statement, beginning with the year 1987. The statement shall contain information required by § 350.4(a) and § 350.4(b) of this part and may include other information that bank management believes appropriate, as provided in § 350.4(c).

(b) *Availability.* A bank shall make its annual disclosure statement available to requesters beginning not later than the following March 31 or, if the bank mails an annual report to its shareholders, beginning not later than five days after the mailing of such reports, whichever occurs first. A bank shall continually make a disclosure statement available until the disclosure statement for the succeeding year becomes available.

§ 350.4 Contents of annual disclosure statement.

(a) *Financial reports.* The annual disclosure statement for any year shall reflect a fair presentation of the bank's

financial condition at the end of that year and the preceding year and, except for state-licensed branches of foreign banks, the results of operations for each such year. The annual disclosure statement may, at the option of bank management, consist of the bank's entire Call Report, or applicable portions thereof, for the relevant dates and periods. At a minimum, the statement must contain information comparable to that provided in the following Call Report schedules:

(1) For insured state-chartered organizations that are not members of the Federal Reserve System:

- (i) Schedule RC (Balance Sheet);
- (ii) Schedule RC-N (Past Due and Nonaccrual Loans and Leases—column A covering loans and leases past due 30 through 89 days and still accruing and Memorandum item 1 need not be included);
- (iii) Schedule RI (Income Statement);
- (iv) Schedule RI-A (Changes in Equity Capital—commercial banks, or Changes in Net Worth—savings banks); and
- (v) Schedule RI-B (Charge-Offs and Recoveries and Changes in Allowance for Loan and Lease Losses—commercial banks, or Charge-Offs, Recoveries, and Changes in Allowance for Loan and Lease Losses—savings banks). (Part I of the commercial bank Schedule RI-B covering specified types of loans and breakdowns by types of loans by savings banks may be omitted).

(2) For insured state-licensed branches of foreign banks:

- (i) Schedule RAL (Assets and Liabilities);
- (ii) Schedule E (Deposit Liabilities and Credit Balances); and
- (iii) Schedule P (Other Borrowed Money).

(b) *Other required information.* The annual disclosure statement shall include such other information as the FDIC may require of a particular bank. This could include disclosure of enforcement actions where the FDIC deems it in the public interest to do so.

(c) *Optional information.* The bank may, at its option, provide additional information. Such disclosures could include information which bank management deems important to an evaluation of the overall condition of the

bank. Information which management might consider adding includes, but is not limited to, a discussion of the financial data; pertinent information relating to mergers and acquisitions; the existence of and facts relating to regulatory enforcement actions; business plans; and material changes in balance sheet and income statement items.

(d) *Disclaimer.* The following legend shall be included in the annual disclosure statement to assure the public that the FDIC has not reviewed the information contained therein: "This statement has not been reviewed, or confirmed for accuracy or relevance, by the Federal Deposit Insurance Corporation."

§ 350.5 Alternative annual disclosure statements.

The requirements of § 350.4(a) may be satisfied:

(a) *In the case of a bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934*, by the bank's annual report to security holders for meetings at which directors are to be elected (see 12 CFR 335.203) or the bank's annual report on Form F-2 (see 12 CFR 335.312);

(b) *In the case of a bank with independently audited financial statements*, by copies of the audited financial statements and the certificate or report of the independent accountant to the extent that such statements contain information comparable to that specified in § 350.4(a); and

(c) *In the case of a bank subsidiary of a one-bank holding company*, by an annual report of the one-bank holding company prepared in conformity with the regulations of the Securities and Exchange Commission or by sections in the holding company's consolidated financial statements on Form FR Y-9C pursuant to Regulation Y of the Federal Reserve Board (12 CFR part 225) that are comparable to the Call Report schedules enumerated in § 350.4(a)(1) of this part, provided that in either case not less than 95 percent of the holding company's consolidated total assets and total liabilities are assets and liabilities of the bank and the bank's consolidated subsidiaries.